

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

INTERNATIONAL INDUSTRIAL
CONTRACTING CORPORATION,

Plaintiff,

Case No. 16-cv-13168

v.

HON. MARK A. GOLDSMITH

SOFIR ITALIA S.R.L., et al.,
Defendants.

**ORDER DENYING DEFENDANTS SOFIR ITALIA S.R.L., ALVARO FREGOLENT,
AND MARCO FERGANI'S MOTION TO DISMISS (Dkt. 13) WITHOUT PREJUDICE,
GRANTING DEFENDANT SOFIR N.A. CO.'S MOTION TO DISMISS (Dkt. 2), AND
DISMISSING DEFENDANT SOFIR N.A. CO. WITHOUT PREJUDICE**

In accordance with this Court's order (Dkt. 14), Plaintiff timely filed an amended complaint (Dkt. 16). Therefore, the Court denies Defendants Sofir Italia s.r.l., Alvaro Fregolent, and Marco Vergani's motion to dismiss (Dkt. 13) without prejudice.

Defendant Sofir N.A. Co. had also filed a motion to dismiss (Dkt. 2), which the Court grants. Plaintiff agreed to the dismissal, but asked that it be without prejudice. Sofir N.A. Co. argued that the dismissal should be with prejudice. Based on the allegations in the original complaint (Dkt. 1), the Court is unable to determine that no cause of action could be asserted against Sofir N.A. Co. Because Plaintiff is content to call a cease-fire at this time, the better course is to dismiss the claims against Sofir N.A. Co. without prejudice and leave to another day, if that day should arrive, whether claims can be asserted and whether costs should be assessed against Plaintiff for renewing the claims if it decides to do so. Therefore, the dismissal of Sofir N.A. Co. is without prejudice.

SO ORDERED.

Dated: February 17, 2017
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on February 17, 2017.

s/Karri Sandusky
Case Manager